

Internal Revenue Service  
Director, Exempt Organizations

Department of the Treasury

Release Number: **200928045**

Release Date: 7/10/09

Date: April 17, 2006

UIL Code: 501.35-00

501.33-00

501.38-00

Taxpayer Identification Number:  
[TIN]

Person to Contact/ID Number:

Contact Telephone Number:

Contact Address:

(ORG)  
(Address 1)

Last Date For Filing A Petition With  
The United States Tax Court:  
July 17, 2006

Certified Mail – Return Receipt Requested

Legend:

TIN =

Org =

Address 1 =

A =

Address 2 =

Phone # 1 =

Date 1 =

Dear

This is a final adverse determination that you do not qualify for exemption from income tax under section 501(a) of the Internal Revenue Code (Code) as an organization described in section 501(c)(3) of the Code. Internal Revenue Service recognition of your status as an organization described in section 501(c)(3) of the Code is revoked, effective [ **Date 1** ].

Our adverse determination is made for the following reason(s):

1. Treas. Reg. 1.501(c)(3)-1(d)(ii) provides that organizations is not operated exclusively for exempt purposes unless it serves a public rather than a private interest. This regulation further provides that an organization must establish that it is not operated for the benefit of its creator's private interests. As a result of our examination, we have determined that a more than insubstantial portion of your activities consisted of promoting the private business interests of your creator and President – [ **A** ]. In large part these activities were conducted through your internet website.
2. We have also determined that on your organization's website, you published a statement in opposition to a candidate for public office. We have determined that this

action constitutes a prohibited intervention in a political campaign of a candidate for public office within the meaning of Treasury Regulation 1.501(c)(3)-1(c)(3)(ii). Accordingly, we have determined your organization is an "action organization" within the meaning of Treasury Regulation 1.501(c)(3)-1(c)(3)(i), and is not operated exclusively for one or more qualifying exempt purposes.

For the reasons explained above, we have determined that you are not operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Code, and Treasury Regulation 1.501(c)(3)-1, so your exempt status is revoked.

Contributions made to you are no longer deductible as charitable contributions by donors for purposes of computing taxable income for federal income tax purposes. See Revenue Procedure 82-39 1982-2 C.B. 759; for the rules concerning the deduction of contributions made to you between **April 17, 2006**, and the date a public announcement, such as publication in the Internal Revenue Bulletin, is made stating that contributions to you are no longer deductible.

Income tax returns, Forms 1120, for tax years ended after 12/31/2005 are to be filed with the appropriate Service Center identified in the instructions for those returns.

The processing of income tax returns and assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed under section 7428 of the Code.

You did not file a request to appeal the proposed revocation to the Office of Regional Director of Appeals within 30 days of the date of our proposed revocation letter dated **January 9, 2006**. Your failure to file an appeal may constitute a failure to exhaust your available administrative remedies for purposes of a declaratory judgment under section 7428 of the Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claims Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

United States Tax Court  
400 Second Street NW  
Washington, D.C. 20217

**The last day for filing a petition for declaratory judgment is July 17, 2006.**

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above, since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance, or you can contact the Taxpayer Advocate office located nearest you by calling the number below or by writing to:

Local Taxpayer Advocate

**[Address 2]**

Phone: **[Phone # 1]** (Not toll free)

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate cannot reverse legal or technically correct tax determinations, or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can, however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State officials of this action, as required by section 6104(c) of the Code.

**This is a final revocation letter.**

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Marsha A. Ramirez  
Director, EO Examinations

Enclosures:

Pub. 892

Internal Revenue Service

Department of the Treasury

TE/GE Division  
[Address 2]

Taxpayer Identification Number:  
[TIN]

Form:  
990

Tax Year(s) Ended:  
December 31,

Person to Contact/ID Number:  
[Name/ID]

Contact Numbers:  
Telephone: [Phone 1]

Fax: [Fax]

Date: January 9, 2006

[Org]  
[Address 1]

**Certified Mail - Return Receipt Requested**

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, Consent to Proposed Adverse Action. We will send you a final modification or revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

[Address 3]

[Phone 2]

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
Name of Taxpayer <b>[Org]</b>	Tax Identification Number <b>[TIN]</b>	Year/Period ended  and	

F =

y =

Date 6 =

Year =

ISSUE:

Is **[Org]** exempt from taxation under section 501(c)(3) of the Internal Revenue Code?

FACTS:

**[Org]** was incorporated **[Date 1]**. It received a letter of determination from the Internal Revenue Service dated **[Date 2]**, recognizing it as exempt from federal income tax as an organization described in Code section 501(c)(3).

The officers of the organization are **[A]**, Director and President, and **[B]**, Director, Secretary, and Treasurer. **[A]** is a **[m]**.

During the years and the principal activity of **[Org]** was maintenance of a site on the Internet using the URL **[n]**. The Internal Revenue Service has obtained a sample of the web pages from each of the three years.

The home page had a header which included a picture of **[C]**, the words, "**[C].com**" and "Home of **[o]** and **[Org]**". The pages included articles, links to other **[p]** sources and solicitations for contributions. It also included advertisements for the **[q]**, books and CD's by **[C]**, and other related merchandise.

A sample page dated **[Date 3]**, included a link to a biography of **[C]**, an offer to sell the book **[o]**, and a link to a story in **[M]** about **[o]**.

A sample page dated **[Date 4]**, included a link to a biography of **[C]**, an offer to sell the book **[o]**, a link to a story in **[M]** about **[o]**, a story and a link to an article stating that **[r]**, a story and a link to an article stating that **[s]**.

A sample page dated **[Date 5]**, included an offer to sell DVD's, videos, and CD's of **[C]**, an offer to sell a **[D]** door mat, an offer to sell an autographed copy of **[E]** by **[C]**, links to a biography of **[C]** and the **[t]**, a link to **[u]** and a solicitation to advertisers to advertise on **[v].com**.

A tally of the items appearing on the pages available to the Internal Revenue Service showed in advertising **[C]** and 25 other items, in 14 items advertising **[C]** and 22 other items, and in 12 items advertising **[C]** and 151 other items. 61 items

In 2004, one page stated in its heading **[w]**, included a list of **[x]** positions taken by **[F]**, and ended "**[y]**". **[C]** is author of **[E]**.

LAW:

Section 501(c)(3) of the Internal Revenue Code provides that "Corporations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition ..., or for the prevention of cruelty to children or animals, no part of the net



Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit
Name of Taxpayer <b>[Org]</b>	Tax Identification Number <b>[TIN]</b>	Year/Period ended  and

earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, ... and which does not participate or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office" shall be exempt from taxation.

Section 1.501(c)(3)-1(d)(ii) of the Income Tax Regulations provides that "An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this paragraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

In *Better Business Bureau v. United States*, 326 U.S. 279, 283, the court stated that the presence of a single substantial nonexempt purpose precludes exempt status for an organization, regardless of the number or importance of the exempt purposes.

In *Association of the Bar of the City of New York*, 858 F.2d 876, the court held that the organization did not qualify as a tax-exempt charitable and educational organization because its rating of candidates for judgeships at the municipal, state and federal levels constituted prohibited intervention or participation in political campaigns. The ratings were communicated to the members and the public and constituted indirect political activity, not merely the dissemination of objective data, as argued by the association.

#### GOVERNMENT'S POSITION:

The presence of a single substantial nonexempt purpose precludes exempt status for an organization under Code section 501(c)(3). A substantial amount of the space on the organization's Web site is intended to promote the private business interests of its president and founder. This is a substantial nonexempt purpose.

An organization exempt under 501(c)(3) may not participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office. In 2004 it published a statement in opposition to a candidate for public office, a prohibited activity.

Because **[Org]** has engaged in nonexempt and prohibited activities, it is no longer exempt from federal income tax.

#### TAXPAYER'S POSITION:

The taxpayer's representative agrees that the organization is not exempt from federal income tax.

#### CONCLUSION:

Effective **[Date 6]**, **[Org]** is not exempt from tax under section 501(c)(3) or any other section of the Internal Revenue Code. Effective **[Year]** and subsequent years it is required to file Form 1120, U. S. Corporate Income Tax Return.